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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 SERGEY SPITSYN,
12 Plaintiff,
13 v.
14 RICHARD MORGAN, *et al.*,
15 Defendants.

Case No. C04-5134FDB-KLS
SECOND ORDER REGARDING
PLAINTIFF'S MOTION FOR
THIS COURT TO INTERVENE

17 This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. §
18 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure.
19 The case is before the Court on defendants' response (Dkt. #177) to the Court's order (Dkt. #175)
20 regarding plaintiff's motion for this Court to intervene (Dkt. #159). After reviewing defendants' response
21 and the balance of the record, the Court finds and orders as follows:

22 In his motion to intervene, plaintiff claimed that he was being prevented from having access to a
23 DVD/CD (containing a camera recording of a January 1, 2005 incident) provided pursuant to a discovery
24 request he had made. Specifically, plaintiff claimed the Superintendent at the institution where he was
25 incarcerated at the time denied such access on the basis that it could jeopardize institutional security.
26 This denial was made allegedly on the advice of an Assistant Attorney General who formerly had
27 appeared in this case. Plaintiff requested that the Court intervene so that he could view the DVD/CD.

28 Before ruling on the issue of whether plaintiff should be granted access to the DVD/CD, the

1 Court, recognizing that permitting plaintiff to physically receive, view, or otherwise gain access to the
2 requested DVD/CD may potentially implicate or jeopardize institutional security, granted defendants the
3 opportunity to show cause, with adequate support, why plaintiff's request should not be granted. On
4 September 7, 2007, defendants responded to the Court's order, stating that plaintiff in fact had been
5 allowed to, and did, view the DVD/CD on or about June 12, 2007. (Dkt. #177).

6 No reply to defendants' response and the statements made therein has been filed by plaintiff, nor
7 is there otherwise any indication that he did not in fact view the DVD/CD of the January 1, 2005 incident.
8 Accordingly, because plaintiff already has viewed the DVD/CD, the Court agrees with defendants that this
9 issue is moot, and plaintiff's motion to intervene (Dkt. #159) hereby is DENIED.

10 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

11 DATED this 15th day of October, 2007.

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15 Karen L. Strombom
16 United States Magistrate Judge
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